

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Lita	§	Group Art Unit: 2453
	§	
Serial No. 09/282692	§	Examiner: Nguyen, Thu Hat
	§	
Filed: 3/31/1999	§	Confirmation No.: 8954
	§	
For: Method and System for Using	§	
Virtual URLs for Load Balancing	§	

32329

PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

REPLY BRIEF (37 C.F.R. 41.41)

This Reply Brief is submitted in response to the Examiner's Answer mailed on April 14, 2009.

No fees are believed to be required to file a Reply Brief. If any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447.

RESPONSE TO EXAMINER'S ANSWER

Appellant's claims 1-22 stand rejected under 35 USC §102(e) as anticipated by Cherkasova et al. "Hybrid and predictive admission control strategies for a server", US Pat. No. 6,360,270 (hereinafter Cherkasova). The standard for an anticipation rejection is high.¹ For the reasons discussed in the Appeal Brief, the Examiner's rejections using the Cherkasova reference fail to meet this standard. In this paper, the Appellant will address new points raised by the Examiner's Answer.

I. Feature of "session identifier originating at a server in pool of server" is recited in Group A – Claims 1, 4-7

On page 13 of the Examiner's answer, the Examiner objects to one aspect of the Appellant's argument indicating, "since the feature of 'session identifiers may originate at a server in the pool of server' is not shown in the claim language. The Appellant points out that claim 4 recites "wherein the session identifier is incorporated in data returned from the given server to the client machine". By referring back to claim 1 from which claim 4 depends one reads that the "given server" is "in the pool of servers". Thus, this limitation is present in the Group A claim set.

II. Feature of Cherkasova returning response containing transaction identifier cannot be read as a "redirection response"

Appellant asserts that the Examiner's statement that "Cherkasova teaches the server send/returns a response containing a transaction to the client (which can be read as "redirection response") ignores the meaning of "redirection" which is well-known to

¹ Section 102 embodies the concept of novelty—if a device or process has been previously invented (and disclosed to the public), then it is not new, and therefore the claimed invention is "anticipated" by the prior invention. . . . Because the hallmark of anticipation is prior invention, the prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements "arranged as in the claim." *Net MoneyIn v. Verisign* (No. 07-1565, Fed. Cir., October 2008).

those skilled in the Internet art. “Redirection” is a way of rerouting a message to a different destination from that which it was originally or normally intended. The Appellant has been consistently faithful to the well known meaning of the term in his specification, in describing requests addressed to the given URL shared by a pool of servers being redirecting to a given server within the pool by the use of the session identifier returned to the client in a redirection response.

Much of the Cherkasova reference has already been reproduced in the Appeal Brief. Neither of the sections cited by the Examiner indicate that Cherkasova’s transaction identifier is in a “redirection response”, i.e. one that is used to provide information for the requests to be redirected to a different server. Col. 6, lines 4-8 indicate that the transaction identifier can be stored in a cookie or a hidden field of an HTTP form, Col. 9, line 44-Col. 10, line 17 indicate that the requests from clients which contain transaction identifiers are directed to the same server targeted by the URL in the original request. The transaction identifier is not used to reroute messages in Cherkasova, merely to make a decision whether request is to be admitted to the server.

Cherkasova does mention redirection in the second section cited by the Examiner. However, it is only the requests without transaction identifiers that are redirected. Further, there is no mention of a transaction identifier being inserted into the deferred, redirected client requests. This would be contrary to Cherkasova’s teachings since only admitted requests obtain transaction identifiers.

III. Cherkasova does not teach “generating a virtual URL”

A Uniform Resource Locator, more commonly referred to as a “URL”, is commonly used in the Internet as the address of a given web server. The Appellant has consistently used the term “virtual” URL to describe an entity, the combination of the base URL for the pool of servers and the session identifier recited in some of the claims, used to redirect a client request to a given server in the pool, in effect, a more precise address. The Examiner cites col. 4, lines 15-35, col. 5, line 41-col. 6, line 8 and col. 9 line 44- co. 10, line 17 for teaching this limitation. However, the combination of the transaction identifier and URL in

Cherkasova provides no such redirection function. It is clear that the original URL alone is used to route the client request; the addition of transaction identifier does not alter the request's original destination. A cookie can be used to store a great variety of information, and that information can be used for a great variety of purposes. Merely because a cookie is returned with a transaction ID does not mean that a "virtual" URL as recited and described by the Appellant has been created.

CONCLUSION

For at least all of the above reasons, Appellants respectfully submit that the appealed Claims 1- 22 have been erroneously rejected, and are patentable over the cited reference in their present form. It is, accordingly, respectfully requested that the Board reverse the Examiner's rejection of the appealed claims.

/ Jeffrey S. LaBaw /

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